

10.2.1.4 Finalizing the Permit/Public Participation Process/ Public Notice/Public Notice Process

Applicability:

The public notice process consists of a series of required steps or procedures specified in state and federal regulation.

Content:

The department shall give public notice that a draft permit has been prepared and its issuance is pending. Additionally, public notice will be issued if a public hearing is to be held because of a significant degree of interest in and water quality concerns related to a draft permit. No public notice is required when a request for a permit modification or termination is denied; however, the requester and permittee must be notified of the denial in writing.

Public notices may and frequently do describe more than one permit or permit action. Public notice of a permit pending must allow at least 30 days for public comment. Public notices for hearings called because of significant interest in a draft permit must be given at least 30 days before the hearing.

Public notice of permits pending is given by circulating the notice in the area of the facility or activity, including posting in the post office and in public places in the community and near the entrance of the facility, and by mailing a copy of the notice to:

- The applicant;
- U.S. EPA;
- Any other agency that issues another form of environmental permit to the facility or activity;
- The U.S. Fish and Wildlife Service, Army Corps of Engineers, Missouri Department of Conservation and Missouri Historic Preservation Office;
- The appropriate office in other affected states, which office will be given opportunity to submit written recommendations that the department will accept or explain in writing the reasons for not accepting;
- Any user identified in the draft permit of a privately owned treatment works;
- Persons on a mailing list who requested in writing to be on the list, who were encouraged to be on the list due to participation in past permit proceedings, or who expressed interest to be on the list in response to publication of the opportunity to do so;
- Any unit of local government having jurisdiction over the area where the facility or activity is located; and
- Each state agency having any authority with respect to the construction or operation of the facility or activity.

Public notice for a public hearing must be published in at least one daily or weekly newspaper of general circulation in the geographical area of the facility or activity and mailed to the same persons, offices or agencies (listed above) that received a copy of the draft permit, notice of permit pending or fact sheet. The notice of the hearing must be at least as broadly circulated as the notice of permit pending.

All public notices issued must contain the following information:

- Name, address and telephone number of the departmental office and any other place to inspect or obtain draft permits, fact sheets and related forms and documents and where the documents may be copied;
- Name and address of the applicant and, if different, of the facility or activity regulated by the permit;
- A brief description of the activities or operations that result in the discharge or potential discharge;
- Name of the watercourse to which the facility or activity discharges or will discharge, a description of the location of the discharge and designation of the discharge as new or existing;
- A statement of the tentative determination to issue the permit;
- A brief description of procedures for making final determination, including the 30-day comment period and other means for interested persons to influence or comment upon the determination; and
- The name and address of the office processing the application.

In addition to the content items listed above, public notice for a hearing must reference previous public notices relating to the permit; the date, time and place of the hearing; a description of the nature and purpose of the hearing; the department's statement of its understanding of the issues raised by persons requesting the hearing; and a brief description of hearing procedures and rules for conduct.

Applications, draft permits, fact sheets, supporting documents and reports, correspondence with and from the applicant, written comments received and requests for hearings must be available to the public with exception of materials that are determined to be confidential (see 4.4 Confidential Information and 10 CSR 20-6.020(3)).

The applicant, any affected or interested agency, organization, group or individual may request a hearing during the 30-day comment period by indicating in writing their interest in the matter and why a hearing is warranted. The department shall hold a hearing if there is significant technical merit and concern related to Clean Water Law provisions. Instances of doubt are resolved in favor of holding the hearing. The hearing is held in the geographic area of the facility or activity or in another appropriate location.

All relevant and material comments received in response to public notice of permit pending or as a result of the public hearing must be given consideration by the department before making a final decision on the permit.

Legal References:

Missouri Clean Water Law, Chapter 644 RSMo

[644.051.4 and .6](#) Prohibited acts--permits required, when, fee--bond required of permit holders, when--permit application procedures--rulemaking--limitation on use of permit fee moneys.

Code of State Regulations:

[10 CSR 20-6.020\(1\)\(B\)](#) Public Participation, Hearings and Notice to Government Agencies - Public Participation - Public Notice of Permit Rending and Issuance Timeframes
[10 CSR 20-6.020\(2\)](#) Public Participation, Hearings and Notice to Government Agencies - Notice to Other Governmental Agenceies (3 Named)

[10 CSR 20-6.020\(3\)](#)

Public Participation, Hearings and Notice to Government Agencies - Public Access to Information

[10 CSR 20-6.020\(4\)](#)

Public Participation, Hearings and Notice to Government Agencies - Public Participation Process

Code of Federal Regulations

[40 CFR 124.10](#)

Procedures for Decisionmaking Public notice of permit actions and public comment period.

Other Links:

[U.S. EPA NPDES Permit Writers' Manual](#), Chapter 11, Section 11.2 relating to public notice and hearings

[4.4 Confidential Information](#)

[10.2.2 Response to Public Comments](#)

Key Words:

Public notice, notice, hearings, public participation, public access to information

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